

Remarks

Claims 1-12, 14-15, 17-18, 20-32, 35-39, 41-60, and 62-74 stand rejected under U.S.C 102 as being anticipated by Mault et al. US Patent Number 6,513,532 B2 ('532 Patent) which incorporates by reference Mault 6,478,736 B1 ('736 Patent). Applicant respectfully asks the Examiner to reconsider these rejections in view of the above Amendments and the below remarks.

The Examiner submitted that the '736 Patent teaches the steps of "computing a difference value between the net total value and the daily food consumption goal" and "crediting the participant with the difference value for utilization of adjusting the daily food consumption goal of a future day". The Applicant respectfully disagrees.

FIG 8B of the '736 Patent shows a difference value between the calories that were eaten (Box with "Eat 1549") and the calories that were burned (Box with "Burn 3101"), the difference being displayed as "Balance – 1552". The Applicant submits that this difference is not based on the daily food consumption goal as required in claim 1, 29 and 41 of the present application. Nothing in FIG 8B of the '736 Patent teaches or suggests that the daily food consumption goal is taken into account in the computing of the difference.

The Applicant further notes that the food consumption goal as taught in FIG 8B of the '736 Patent is a loss rate (in lbs/week unit) that can not be taken into account in a difference with an activity value or a total food value as required in claim 1, 29 and 41. Thus, FIG 8B does not teach the step of computing a difference value between the net total value and the daily food consumption goal.

The Examiner also cited FIG. 11B of the '736 Patent teaching a step of computing a "Balance surplus". This "Balance surplus" is based on a target value.

However, FIG 8B teaches that the adjustment of the consumption goal represented by the loss rate is based on the "Balance" and not the "Balance surplus". So this "Balance surplus" is not credited to the participant for utilization of adjusting the daily food consumption goal as required in claim 1, 29, 41.

The Examiner also cited FIG. 12C of the '736 Patent and submitted that this figure illustrated the step of "adjusting the daily food consumption goal of a future day".

Again, even if the "To Go" value is changeable depending on the weight of the participant and the target weight, this figure does not teach a step of crediting the participant with a difference value based on the daily food consumption as required in claim 1, 29, 41. In fact, it appears in figure 12 C, that if the participant loses weight, the "To Go" value will be adjusted, and this happens independently of the daily food consumption goal.

Applicant submits that Mault et al. US Patent Number 6,513,532 B2 which incorporates by reference Mault 6,478,736 B1 does not teach or suggest the steps of computing a difference value between the net total food value and the daily food consumption goal and crediting the participant with the difference value for utilization of adjusting the daily food consumption goal of a future day as required in claim 1, 29, 41.

Applicant also submits that neither Mault et al. nor any cited reference disclose, teach, or suggest anything that could even be argued to render obvious the above highlighted limitation.

First, none of the cited prior art references disclose, teach or suggest a step of computing a difference value between the net total food value and the daily food consumption goal and crediting the participant with the difference value for utilization of adjusting the daily food consumption goal of a future day as required in claim 1, 29 and 41. Thus, none of the prior art in any combination can render claims 1, 29 or 41 obvious.

Furthermore, the Applicant submits that it would not have been obvious for one skilled in the art to modify Mault et al. to obtain the steps claimed in claimed 1, 29 and 41. In fact, in order for the claimed invention to be obvious over the prior art, there must be some suggestion or motivation in the reference to make the relevant modification. *See, e.g.*, MPEP 2143.01 ("The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination."); *In re Mills*, 916 F.2d 680, 682, 16 USPQ2d 1430, 1432 (Fed. Cir. 1990) (fact that prior art "may be capable of being modified to run the way the apparatus is claimed, there must be some suggestion or motivation in the reference to do so."); *In re Vaeck*, 947 F.2d 488, 493, 20 U.S.P.Q.2d 1438, 1442 (Fed. Cir. 1991) (suggestion to combine must be found in the prior art, not the applicant's disclosure).

Mault et al. does not disclose, teach or suggest a step of computing a difference value between the net total food value and the daily food consumption goal and crediting the participant with the difference value for utilization of adjusting the daily food consumption goal of a future day as required in claim 1, 29 and 41.

As there is no suggestion or motivation in the cited references to modify the teachings of Mault et al, claim 1, 29 and 41 can not be rendered obvious in view of cited prior art.

Furthermore, as currently amended, claims 14 and 49 require among other limitations, a step of receiving an indication from the participant indicative of whether the participant prefers a structured meal plan schedule or a non-structured meal plan schedule, said non-structured meal plan schedule being a meal plan schedule based upon food selections received from the participant and said structured meal plan schedule being a meal plan schedule automatically based on at least one component of the initial personal profile.

The Examiner submitted that the Applicant does not provide a specific definition of a "structured meal plan schedule" and a "non-structured meal plan schedule". As amended, claims 14 and 41 comprise a definition of such schedules, said non-structured meal plan schedule being a meal plan schedule based upon food selections received from the participant and said structured meal plan schedule being a meal plan schedule automatically based on at least one component of the initial personal profile.

The Examiner also submitted that the Weight Watcher Points disclosed in Mault et al. could be interpreted as a "structured meal plan" and when the user is not using the weight watchers points program, the Mault system would not be non-structured.

With the claimed definition of the "structured meal plan schedule" and "non-structured meal plan schedule", the Applicant respectfully disagrees. In fact, Weight Watchers points correspond for example to a measure of the calories associated with a nutrient or an activity. It is not a meal plan schedule as required in claims 14 and 49, which is a time based list of meals which can be either automatically based on at least one component of the initial personal profile or based upon food selections received from the participant.

In view of the above, the Applicant respectfully asks the Examiner to reconsider his interpretation of claims 14 and 49.

The Applicant also amended claim 62, which requires, among other limitations, a step of forming a meal plan schedule based on at least one component of the initial personal profile and upon the indication received from the participant, the meal plan schedule being consistent with the daily food consumption goal and utilizing foods having values associated therewith, said meal plan schedule comprising a schedule of pre-established food combinations, said schedule pre-established food combinations depending on the indication received from the participant.

Mault discloses the use of nutritional target in figure 8C. However, the Applicant submits that Mault does not disclose, teach or suggest how these nutritional targets are associated with a meal plan to correspond to a meal plan type. As required in amended claim 62, once the participant has chosen a meal plan type, the meal plan schedule is adapted to this meal plan type.

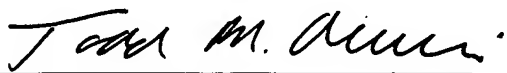
It is true that every meal/food provided by the Mault system has a given percentage of carbohydrates, proteins, and fat.

However, Mault does not teach the possibility to select the meals based on these percentages. In fact, it appears to the Applicant that the only parameter which is taken into account in the selection of the meals is the calorie. So, Mault does not teach, disclose or suggest a selection of the pre-established food combination based on at least one of carbohydrates, protein, fat, and fruits and vegetables.

For the foregoing reasons, the Applicant respectfully submits that all pending claims, namely claims 1-12, 14-15, 17-18, 20-32, 35-39, 41-60 and 62-74, are in condition for allowance, which is earnestly solicited.

Respectfully submitted,

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